

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4160 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SETH BATUKLAL VRIJLAL

Versus

PATEL RAMJIBHAI HIRABHAI

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Appearance:

MR GOVIND V PATEL for Petitioner

MR PV HATHI for Respondent No. 1

MR HV CHHATRAPATI for Respondent No. 2

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 13/03/96

#### ORAL JUDGEMENT

This petition challenges the, order of the appellate authority passed on 1.2.1983 under the Gujarat Rural Debtors' Relief Act, 1976. By the said order the appellate authority had set aside the order dated 28.9.1981 passed by the Debt Settlement Officer under the provisions of Section 8(3)(i) holding that the petitioner was a marginal farmer and that his debt was to be

discharged completely.

At the time of considering the petitioner's request for interim relief, this court had passed the following order on 22.11.1984:

Oral Order :

Mr.P.V.Hathi, learned advocate for respondent no.1 plaintiff states to the Court that respondent no.1 plaintiff is prepared to file an undertaking in this Court within course of two weeks from to-day to the effect that in case civil suit no. 68 of 1976 results into any decree against the petitioner, the decree will not be executed against the petitioner till the Special Civil Application is disposed of. In view of the aforesaid stand taken by respondent no.1-plaintiff- and the undertaking which shall be filed by him within two weeks from today, no stay of civil suit no.68 of 1976 is required to be granted at this stage. Hence, Civil Application stands disposed of with no order thereon."

At the time of hearing to-day Mr.P.V.Hathi, learned Advocate for respondent no.1 states that respondent no.2 had proceeded with Civil Suit No.68 of 1976 and had obtained decree in the said suit against the present petitioner and three other defendants. However, respondent no.1 has executed the decree against the three defendants and not against the petitioner. According to Mr.Hathi, respondent no.2 has already recovered his dues from the other defendants in the suit and respondent no.2 now does not claim any amount from the petitioner. In view of the above subsequent development and the statement of Mr.Hathi for respondent no.2, this petition has become infructuous and is required to be rejected as infructuous.

Rule is accordingly discharged with no order as to costs.

Liberty to the petitioner to apply in case of difficulty.